

PROCUREMENT STANDARDS

§ 550.43 Purpose of procurement standards.

Sections 44 through 50 set forth standards for use by Cooperators in establishing procedures for the procurement of supplies and other expendable property, equipment and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders. No additional procurement standards or requirements shall be imposed by the Federal awarding agencies upon Cooperators, unless specifically required by Federal statute or executive order or approved by OMB.

§ 550.44 Cooperator responsibilities.

The standards contained in this section do not relieve the Cooperator of the contractual responsibilities arising under its contract(s). The Cooperator is the responsible authority, without recourse to the REE Agency, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of a nonassistance agreement. This includes disputes, claims, award protests, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority, as may have proper jurisdiction.

§ 550.45 Standards of conduct.

The Cooperator shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The

officers, employees, and agents of the Cooperator shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, Cooperators may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Cooperator.

§ 550.46 Competition.

(a) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The Cooperator shall be alert to organizational conflicts of interest as well as non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the Cooperator, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offer shall fulfill in order for the bid or offer to be evaluated by the Cooperator. Any and all bids or offers may be rejected when it is in the Cooperator's interest to do so.

(b) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of Executive Orders 12549

Agricultural Research Service, USDA

§ 550.52

and 12689, “Debarment and Suspension.”

(c) Recipients shall, on request, make available for the REE Agency, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

§ 550.47 Cost and price analysis.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

§ 550.48 Procurement records.

Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum:

- (a) Basis for contractor selection;
- (b) Justification for lack of competition when competitive bids or offers are not obtained; and
- (c) Basis for award cost or price.

§ 550.49 Contract administration.

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely followup of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

§ 550.50 Contract provisions.

The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.

(a) Contracts in excess of the simplified acquisition threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in in-

stances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(b) All contracts in excess of the simplified acquisition threshold shall contain suitable provisions for termination by the cooperator, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) All negotiated contracts (except those for less than the simplified acquisition threshold) awarded by recipients shall include a provision to the effect that the recipient, the REE Agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(d) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of appendix A, 2 CFR part 215, as applicable.

REPORTS AND RECORDS

§ 550.51 Purpose of reports and records.

Sections 550.52 through 550.55 set forth the procedures for monitoring and reporting on the Cooperator's financial and program performance and the necessary reporting format. They also set forth record retention requirements, and property and equipment inventory reporting requirements.

§ 550.52 Reporting program performance.

(a) The REE Agency shall prescribe the frequency with which performance reports shall be submitted. Performance reports shall not be required more frequently than quarterly or, less frequently than annually. Annual reports shall be due 90 calendar days after the